

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

3 UNITED STATES OF AMERICA,
4 Plaintiff,

Criminal Action
No. 1:07CR412-1

5 vs.

Greensboro, North Carolina
December 15, 2009

6 MARKO RUDI,
7 Defendant.

8 _____/

9
10 TRANSCRIPT OF MOTION PROCEEDINGS

11 BEFORE THE HONORABLE N. CARLTON TILLEY, JR.

12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

14 For the Government: ROBERT HAMILTON, ESQUIRE
15 Assistant United States Attorney
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 Greensboro, North Carolina 27402

17 For the Defendant: CHRISTOPHER CLIFTON, ESQUIRE
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23
24 Proceedings reported by stenotype reporter.
25 Transcript produced by computer-aided transcription.

1 (Defendant is present.)

2 THE COURT: Mr. Hamilton.

3 MR. HAMILTON: May I call the next case, Your
4 Honor, United States versus Marko Rudi, 1:07CR412. Your
5 Honor, we're here for purposes of a motion to withdraw.
6 Mr. Rudi is present, along with attorneys David Long and
7 Mr. Chris Clifton, Your Honor.

8 THE COURT: Mr. Long, perhaps I should hear from
9 you first on this, your motion. Mr. Rudi, you and
10 Mr. Clifton may be seated while I hear from Mr. Long.

11 MR. LONG: Thank you, Your Honor. Good morning.
12 I hate to be here.

13 THE COURT: Well, we're glad to see you here.

14 MR. LONG: I'm glad to see you here, but I'm not
15 happy to see you on this motion.

16 On September 28 -- I'm just going to give you a
17 little chronology. I've got to be a neutral here to the
18 extent I can, but I just want to go through a summary of the
19 important dates, just so you will have that information.

20 THE COURT: Okay.

21 MR. LONG: Mr. Rudi, the first meeting I have
22 notes, I met with him September 28, 2005. We had our first
23 engagement letter on November 14, 2005. October 3, 2006,
24 there was an engagement letter prepared for my law firm to
25 RTI and two representatives of RTI who are here today in

1 court. October 12th, 2006, RTI signed this engagement
2 letter with waiver language in it about continuing my
3 representation of Mr. Rudi.

4 I understand from Mr. Howard today, that they do
5 not contest that waiver. October 16, 2006, I instituted a
6 screen, screening me from RTI and the attorneys who were
7 doing employment law work for RTI, so I screened myself and
8 my secretary from our employment law attorneys who were
9 dealing with RTI. That screen has remained in effect
10 throughout, so I knew nothing about RTI, and the attorneys
11 representing RTI knew nothing about my involvement with
12 Mr. Rudi, other than the fact that the dual representation
13 existed.

14 November 20, 2009, my managing partner came to me
15 and indicated that there was some concern on the part of RTI
16 about my continued involvement in the representation of
17 Mr. Rudi. The victim is RTI. Mr. Rudi was an employee of
18 RTI at the time of the events that we'll be discussing in
19 this case.

20 At that time, I realized I had a material
21 limitation under Rule 1.7 of North Carolina Rule of
22 Professional Responsibility, in two respects: Number one,
23 my ability to represent Mr. Rudi effectively, with RTI
24 having raised the concern as a client of my law firm.

25 Number two, I was concerned about my ability to

1 represent Mr. Rudi, adverse to RTI, when I could possibly be
2 more of a hinderance or a liability than an asset to him in
3 that representation.

4 I think on those two levels, I have a material
5 limitation on my ability to continue to represent Mr. Rudi,
6 and I'll be happy to answer any questions, but I think that
7 is the sum and substance of this motion.

8 THE COURT: Thank you, sir.

9 Mr. Howard, do you wish to be heard?

10 MR. HOWARD: Your Honor, thank you. No, sir. In
11 the month since I last seen you, I should be clear, I have
12 left the Government and have gone in-house at RTI, and been
13 working with Mr. Hamilton on this case, as representing the
14 victim in the matter.

15 THE COURT: Thank you.

16 Mr. Clifton, do you wish to be heard?

17 MR. CLIFTON: No, sir.

18 THE COURT: Mr. Rudi, I'll be glad to hear
19 anything that you would like to say.

20 THE DEFENDANT: Well, I guess all I wanted to say,
21 I'm opposing the withdrawal of Mr. Long. I've engaged
22 Mr. Long four years ago. I've invested time, money with
23 him. This situation was known to RTI for four years, longer
24 than four years, so the so-called conflict surfaced only
25 given circumstances when RTI gained some information, so I'm

1 not sure why -- to be honest, I don't understand the
2 substance of the conflict and where it's coming from and
3 that's the reason why I was opposed to it.

4 THE COURT: Anything else?

5 THE DEFENDANT: No. That's it.

6 THE COURT: I do not know what financial
7 arrangements had been made. I don't really think at this
8 point that's a concern of the Court. That may be something
9 to be reconciled between the two of you.

10 MR. LONG: Absolutely, Your Honor. Absolutely.

11 THE COURT: I do understand Mr. Long's assessment
12 of a conflict and material limitation. I have been in
13 similar positions before as an attorney, and I think that is
14 a very reasonable assessment, and for that reason, I am
15 going to allow his motion to withdraw, especially
16 considering the fact that you have excellent attorneys in
17 place otherwise, so it's not leaving you unrepresented.

18 Anything further?

19 MR. LONG: Nothing further for me, Your Honor.

20 THE COURT: Thank you for being here.

21 MR. HAMILTON: Your Honor, nothing further on this
22 motion, but since all of the parties are here, I was
23 wondering if I could discuss a scheduling matter.

24 THE COURT: I'll certainly be glad to have you
25 state that.

1 MR. HAMILTON: Your Honor, as you know, the
2 defense requested a continuance in this matter until the
3 April term, which was granted by Judge Shroeder, and we
4 agreed to that continuance. Your Honor, since that time, my
5 case agent has contacted me. He is now stationed overseas
6 in the Philippines. He is expecting his first child in
7 early March, and he's been advised to seek medical treatment
8 in a country other than the Philippines, which has further
9 complicated his issue which might otherwise be complicated.
10 Your Honor, we would like to have him have time to have his
11 first child, spend some time with the child, and then also
12 arrive here perhaps -- or a little bit of time to help
13 prepare for trial, so we're fine with the April setting, but
14 we wanted to put the Court on notice that the Government
15 would request a setting either perhaps late in April or
16 early in May, just to make sure to accommodate the case
17 agent, who is stationed overseas.

18 THE COURT: Mr. Clifton, do you have a response
19 with regard to that? Would you like to speak to Mr. Rudi
20 about it before?

21 MR. CLIFTON: Mr. Rudi and I have actually spoken
22 about this potential issue before today. I thought that
23 discovery might try to push it back. What I would say is,
24 we certainly don't want to impair the ability of this agent
25 to see his child born, but we hoped that we could come up

1 with a firm date, because Mr. Rudi has been in custody now
2 close to a year and a half. He's not eligible for bond in
3 the U.S. because he has no citizen status, which hurts him
4 even more.

5 If the Court would allow Mr. Hamilton to come up
6 with a firm date and offer that to the Court instead of
7 saying late April, early May.

8 THE COURT: How long will it take you to do that?

9 MR. HAMILTON: Not very long, Your Honor.

10 MR. CLIFTON: Long enough for me -- I would hope
11 by the end of this week. Long enough for me to look at my
12 schedule.

13 THE COURT: Why don't you let us know by the first
14 of next week.

15 MR. CLIFTON: Okay.

16 MR. HAMILTON: Thank you, Your Honor.

17 THE COURT: Thank you.

18 (This matter was concluded.)
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C E R T I F I C A T E

I, J. CALHOUN, RPR, United States District Court
Reporter for the Middle District of North Carolina, DO
HEREBY CERTIFY

That the foregoing is a true and correct transcript
of the proceedings had in the within-entitled action; that
I reported the same to typewriting through the use of
Computer-Aided Transcription.

THIS TRANSCRIPT CERTIFICATION IS VOID, IF THE
SIGNATURE IS NOT ORIGINALLY SIGNED BY THE COURT
REPORTER WHO REPORTED THIS MATTER.

A handwritten signature in cursive script, appearing to read "J. Calhoun".

Date: 9-14-10

J. Calhoun, RPR
United States Court Reporter
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